IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8126 of 1991

For Approval and Signature:

HON'BLE MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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ATMARAM B PATEL LIBRARIAN

Versus

THE AHMEDABAD MUNICIPAL CORPORATION, AHMEDABAD

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Appearance:

1. Special Civil Application No. 8126 of 1991

MR RA PATEL for Petitioner

MR VD NANAVATI FOR NANAVATI & NANAVATI for Respondent

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CORAM : HON'BLE MR.JUSTICE R.K.ABICHANDANI

Date of decision: 24/09/2003

ORAL JUDGEMENT

1. During the course of arguments, the learned counsel for the petitioner states that the petitioner was confining his case only to his being given the benefit of

the decision of the learned Single Judge rendered on 13-11-1978 in Special Civil Application No.1679 of 1976. As per the said decision, it was directed that the Corporation should implement the resolution dated January 1, 1967 in case of the petitioner and grant him senior time scales as set out in paragraph 2 of the judgement, as modified from time to time with effect from February 14, 1972.

2. It appears that the I.G.Thakore award intervened and various revised payscales were prescribed for the employees of the Corporation. The case of the Corporation is that though there was a reference to a resolution and three payscales which are mentioned in paragraph 2 of the judgement of the learned Single Judge, the higher scales mentioned therein were in fact not in existence in the library section of the Corporation. That argument was rejected long back by the learned Single Judge by his order dated 26-8-1985 made in Miscellaneous Civil Application No.396 of 1985, by which the Corporation had sought review of the order. In the order dated 26-8-1985, the learned Single Judge observed that it was too late in the day for the Corporation to tell the court that the resolution mentioned in the judgement was in fact not there. It was held that seven years after the making of the order even if there was a mistake, there was no ground for its rectification in review jurisdiction. Admittedly, even that order dated 26-8-1985 was not challenged by the Corporation and became final. Therefore, the petitioner became entitled to be fixed in the scales mentioned in paragraph 2 of the judgement dated 13-11-1978 as per the directions given in that judgement. On the basis of the benefit so given to the petitioner, he was entitled to be fixed in the payscales equivalent to the scales mentioned in paragraph 2 of the judgement irrespective of the fact whether such a scale was there in the library section or not.

3. Accordingly, the respondents are directed to consider the petitioner's case afresh in light of the decision dated 13-11-1978 of the learned Single Judge in Special Civil Application No.1679 of 1976 and fix his entitlement to the scales as per the directions contained in paragraph 7 of the said decision and make applicable the payscale that may be equivalent to the payscale mentioned in the said judgement as per I.G. Thakore Award. The learned counsel for the petitioner has confined the relief only to this extent. Rule is made absolute accordingly with no order as to costs.

[R.K.ABICHANDANI, J.]

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